



FRANKLIN COUNTY COMMISSIONER MEETING
December 15, 2020 – 10:00 A.M.
COMMISSIONERS/COUNCIL MEETING ROOM, #203

The Franklin County Commissioners met on December 15, 2020, at 10:00 A.M. in the Commissioners/Council meeting room. Those present were Tom Linkel, Gerald Wendel, Tom Wilson, Faye Hay and Karla Bauman, deputy auditor.

Open: The meeting was called to order and the pledge of allegiance was led by Tom Linkel.

COVID-19 Health Department Update:

997 cases since March

Age group – ages 7 to 93

28 deaths

885 cases recovered

84 active cases being monitored

21 hospitalized

There are no known hotspots in the County. Commissioner Linkel stated that he was told this morning that the County will be going Red later today or tomorrow. He also stated that we all need to keep on doing what we are doing and stay safe.

Official Bonds Insurance Quotes: Commissioners received two quotes for official bonds. Southeastern Insurance for individual bonds was \$1,676.00. Berns Family Insurance was \$1,425.00. Commissioners discussed the two quotes with Susan Moster from Southeastern Indiana Insurance and Sean Berns with Berns Family Insurance. **Motion to accept the quote from Berns Family Insurance for \$1,425.00 by Tom Wilson, seconded by Gerald Wendel, all in favor, motion carried.** for new quotes for official bonds to be turned in by December 17, 2020 by Tom Linkel, seconded by Gerald Wendel, all in favor, motion carried. Sean Berns will provide an itemized invoice to the County.

Cathy Pelsor, Public Transportation – 2021 Capital Assistance Grant: Commissioners reviewed the grant documents for the Public Transportation Capital Assistance Grant. **Motion to approve the Capital Assistance Grant contingent upon County Council approval of the County's match by Tom Linkel, seconded Gerald Wendel, all in favor, motion carried.**

Larry Smith, County Engineer: Commissioners discussed with Mr. Smith the preliminary engineering fees that would be needed to apply for the INDOT matching money. At this they stated that it would cost too much to do the proposed three bridges. **Motion to not apply for the INDOT matching grant money at this time by Tom Linkel, seconded by Tom Wilson, all in favor, motion carried.**

FEMA Grant, Homeland Security Grant – Amy Lindsey, EMA: Amy Lindsey, EMA Director, presented two grants for Commissioners approval. The first one is a FEMA grant thru Homeland Security for \$214, 170.00 for security upgrades throughout the County. **Motion to ratify the FEMA Grant by Tom Wilson, seconded by Gerald Wendel, all in favor, motion carried.** The second grant is for \$50,000.00 thru the Indiana Criminal Justice Institute. **Motion to sign the Indiana Criminal Justice Institute grant for \$50,000.00 by Tom Wilson, seconded by Gerald Wendel, all in favor, motion carried.**

Amy Lindsey, EMA – Weather Operations Volunteer: Amy Lindsey requested the Commissioners approve Chad Gutzwiller as Weather Operations Volunteer. This is simply replacing a prior appointment and will not cost the County any additional money. **Tom Linkel moved to appoint Chad Gutzwiller as weather operations volunteer, seconded by Gerald Wendel, all in favor, motion carried.**

Review and Certification of Amendments to Alternate Energy Systems to Franklin County Indiana Zoning Ordinance: Commissioners discussed the proposed changes to the Franklin County Indiana Zoning Ordinance for alternate energy systems with their attorney, Grant Reeves. A copy of said proposal is attached hereto. There will be another public hearing on January 13, 2021 at 7:00 p.m. **Motion to certify and send proposed changes back to APC by Tom Linkel, seconded by Tom Wilson, all in favor, motion carried.**

Resolution 2020-25, CARES Relief Fund Payroll Reimbursement: Commissioners reviewed and discussed the proposed resolution directing alternative accounting process affecting CARES relief fund payroll reimbursement. Auditor Bauman explained that at the time the State asked that we file for our remaining CARES money thru payroll reimbursement, that we had at least 13 requests for reimbursements approved by Commissioners and sent to the State for approval. She further explained that the State called and stated that they could not guarantee that the requests would be approved in 2020 and that all payroll reimbursement requests were getting priority status. They suggested that the County seek the balance of CARES money thru the payroll reimbursement process. **Motion to approve Resolution 2020-35 for alternative accounting process affecting CARES relief fund payroll reimbursement by Tom Linkel, seconded by Tom Wilson, all in favor, motion carried.**

Extension Contract with Purdue University: Commissioners reviewed the contract between the County Extension office and Purdue University in the amount of \$63,000.00. **Motion to sign the extension contract in the sum of \$63,000.00 by Tom Wilson, seconded by Gerald Wendel, all in favor, motion carried.**

Barada Law Contract: Commissioners reviewed the Contract with Grant Reeves from Barada Law and it is the same as 2020. The charge per hour is \$175.00 for attorney and \$75.00 for paralegal. **Motion to sign the contract with Barada Law Tom Linkel, seconded by Gerald Wendel, all in favor, motion carried.**

Cummins Road – This was tabled due to landowner's attorney being out of town. Mr. Reeves has drafted a proposed lawsuit at the request of the commissioners. Bridget Hayes asked if it was a public way. It is the County's position that it is a county right of way. Gloria Hoog stated that the offset road, South County Line must be maintained per Indiana law.

Mr. Reeves also discussed with the Commissioners about sending out an email reminding County departments and employees to maintain social distancing of 6 feet and that some offices are having a hard time doing that. Auditor Bauman stated that while working at our desks it is easy to maintain the six feet. When working with customers sometimes the six feet cannot be maintained. She will be having her employees wear their masks if they get up from their desk, moving around the office. Mr. Linkel will work with Faye on getting an email to send out to all departments.

Clerk & Treasurer Reports – November 2020: Motion to acknowledge receipt of the November monthly reports for the clerk and treasurer by Tom Wilson, seconded by Gerald Wendel, all in favor, motion carried.

Minutes – October 6, 2020: Motion to approve the October 6, 2020 by Tom Wilson, seconded by Gerald Wendel, all in favor, motion carried.

Supplemental Minutes – November 17, 2020: Motion to approve the supplemental minutes for the November 17, 2020 meeting by Gerald Wendel, all in favor, motion carried.

Minutes – December 1, 2020: Motion to approve the December 1, 2020 minutes by Gerald Wendel, seconded by Tom Wilson, all in favor, motion carried.

Minutes – Executive Session, December 1, 2020: Motion to approve the minutes for the executive session on December 1, 2020 by Tom Wilson, seconded by Tom Linkel, all in favor, motion carried.

Claim Allowances for December 15, 2020 - \$631,389.33: Motion to approve the claims in the amount of \$631,389.33 by Tom Linkel, seconded by Gerald Wendel, all in favor, motion carried.

Payroll and Payroll Deductions: Motion to approve the payroll in the amount of \$184,504.36 and payroll deductions in the amount of \$81,035.81 by Tom Linkel, seconded by Tom Wilson, all in favor, motion carried.

Lieberman Technologies Contract: Commissioners reviewed the Lieberman Technologies Contract for the Sheriff in the amount of \$5,600.00 for 2021. **Motion to sign the contract with Lieberman Technologies in the sum of \$5,600.00 for 2021 by Tom Wilson, seconded by Tom Linkel, all in favor, motion carried.**

Tom Linkel – four quotes for mini excavator and tractor: Commissioners reviewed the quotes received for a mini excavator and tractor. **Motion to accept the New Holland tractor quote from Zimmer Tractor in the sum of \$117,883.00 by Tom Linkel, seconded by Tom Wilson, all in favor, motion carried. Motion to accept the John Deere quote for an excavator in the sum of \$119,800.00 by Tom Linkel, seconded by Tom Wilson, all in favor, motion carried.**

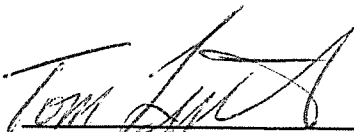
Sara Duffy – Sara Duffy asked the Commissioners how many shots will the county receive from the first allotment of 55,000 doses of the Covid-19 vaccine? Angie Ruther with the Health Department answered that question as follows: "When the Health Department receives vaccines, clinics will be held at the health department by appointment only. It will be a very limited supply and there will be strict guidelines on who can receive it. Please keep in mind that vaccine allocation is still in the planning phase and may change multiple times. The Indiana State Department of Health will decide how many doses we get, as well as who can receive it.

Adjourn: Motion to adjourn by Gerald Wendel, seconded by Tom Linkel, all in favor, motion carried.

Others Present:

Minutes approved December 15, 2020.

AYES:



Tom Linkel

NAYS:

Tom Linkel

Suggested Changes to AES Proposal to Meet your Requests

I believe you need to send the following two changes over the APC to make the changes you discussed. The rest of their proposal would stay the same. This is a very simple approach that creates a district that allows only basically agriculture and Alternate energy as a conditional use. It does not allow CAFO's and other conditional uses that would potentially stack on top of the alternate energy and create a really intensive use of a tract.

The second change puts the A-AES district into the list of locations where the AES conditional uses are allowed. There was some confusion at the last meeting over where intermediate would be allowed, so we are also clarifying that at the same time.

You need to certify these to the APC and ask that they set it for a hearing in January.

1) Creation of AES District – Add the following:

SECTION 80.03.____: A-AES AGRICULTURE ALTERNATE ENERGY SYSTEM DISTRICT

For the purpose of sound and efficient management of all agricultural land in Franklin County and to allow Alternate Energy Systems in agricultural areas in a regulated manner, all A-AES regulations, specifications, or standards covered by this Ordinance are hereby made identical to those of the A-1 district.

Wherever in this ordinance, “A-1” is mentioned, those specifications also apply to the A-2 district with the exception of Conditional Uses. Only the Conditional Uses set forth in SECTION 80.06.06 – COMMERCIAL & INTERMEDIATE ALTERNATE ENERGY SYSTEMS shall be allowed in A-AES, subject to appropriate approvals.

2) Cleaning up the following in the proposed 80.06.06

A) Regulations

1) Approval Process:

a) Commercial AES – Class 3 conditional use allowed in zoning districts A-AES, I-1, I-2

b) Intermediate AES – Class 3 conditional use allowed in all zoning districts except F-P

Alternate
Energy
Systems Def.
1 pg.

SECTION 80.13.
DEFINITIONS

B) Related

- 1) **Applicant:** The entity or person who submits to the Executive Director an application for the siting of any AES or thereafter operates or owns an AES.
- 2) **Financial Assurance:** Financial assurance means cash escrow with the County.
- 3) **Improvement Location Permit Fee:** Fees associated with the approval and issuance of a permit obtained by the Executive Director or Town Board.
- 4) **Meteorological Towers:** Towers which gather wind energy data to determine project feasibility, and not connected to any electrical power grid.
- 5) **Net Metering:** An AES incentive that requires your utility to purchase excess electricity that your AES produces at the full retail value of electricity. In other words, when your AES produce more electricity than your home needs, that excess power will be sent to the power grid.
- 6) **Non-Participating Landowner -** A landowner on which a structure does not physically sit.
- 7) **Operator:** The entity responsible for the day-to-day operation or maintenance of the AES, including any third-party subcontractors.
- 8) **Owner:** The entity or entities with an equity interest in the AES, including their respective successors and assigns. Owner does not mean (i) the property owner from who the land is leased for locating the AES (unless the property owner has an equity interest in the AES); or (ii) any person holding a security interest in the AES solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the AES within one year of such event.
- 9) **Professional Engineer:** A qualified individual who is licensed as a professional engineer in any state in the United States and approved by the APC Executive Director.
- 10) **Primary Structure:** For each property, the structure that one (1) or more persons occupy the majority of the time on that property for either business or personal reasons. Primary Structure includes, but is not limited to, structures such as residences, commercial buildings, hospitals, day care facilities, hunting sheds, storage sheds, pool houses, unattached garages and barns.
- 11) **Primary Voltage:** A.C voltage which power is distributed or transmitted by a public electrical utility (i.e. starting at 2400 volts and up).
- 12) **Secondary Voltage:** Low voltage A.C. supplying one ultimate user (i.e. Under 600 volts).
- 13) **Solar Unconditioned Output:** D.C. output not converted to A.C.

80.13. G Alternate Energy System Definitions

For purposes of this code, certain terms and definitions apply to section 80.06.06, Alternate Energy Systems (AES) as follows:

A) System Definitions

- 1) **Alternate Energy Systems (AES):** The collection of Wind Energy Systems (WES) or Solar Energy Systems (SES) as specified in the siting approval application.
- 2) **Commercial AES:** An area of land or other area used by a property owner and/or corporate entity for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power, and supply electrical or thermal power, primarily or solely for offsite utility grid use, and consisting of one or more free-standing or ground-mounted, solar arrays or modules or wind related equipment, intended to primarily reduce offsite consumption of utility power and/or fuels.
- 3) **Intermediate AES:** An alternate energy system that is generally smaller than a commercial AES and the primary purpose is to collect solar or wind energy for purpose of supplying energy to the owners, such as a business, school, or factory, and not connected at primary voltages.
- 4) **Residential AES:** A small solar or wind energy system whose general purpose is to provide energy to a residential or small business user such as a farmer or homeowners, and not connected to primary voltages.
- 5) **Wind Energy System (WES):** All necessary devices that together convert wind energy into electricity, including but not limited to the rotor, nacelle, generator, WES Tower, electrical components, WES foundation, transformer, electrical cabling for the WES Tower to the Substation(s), switching stations, meteorological towers, communications facilities, and other required facilities and equipment, as related to the WES project.
- 6) **WES Tower:** The support structure to which the nacelle and rotor are attached, free standing or guyed structure that supports a wind turbine generator.
- 7) **WES Tower Height:** The distance from the rotor blade at its highest point to the top surface of the WES foundation.
- 8) **Solar Energy System – (SES):** A system that converts solar radiation into electricity via photovoltaic cells. Reference IAC IC 36-7-2-8 Solar energy systems; ordinances; reasonable restrictions.
- 9) **Ground-Mounted Solar:** A solar energy system that is structurally mounted to the ground.
- 10) **Building-Mounted Solar:** A solar energy system that is structurally mounted to a building or Energy System structure. A Building-mounted SES can be mounted on the roof or façade of a building or structure.

SECTION 80.06.06 – COMMERCIAL & INTERMEDIATE ALTERNATE ENERGY SYSTEMS

A) Regulations

- 1) Approval Process:
 - a) Commercial AES – Class 3 conditional use allowed in zoning districts I-1, I-2
 - b) Intermediate AES – Class 3 conditional use allowed in all zoning districts except F-P

B) Commercial and Intermediate Wind Energy Systems (WES) Siting Requirements

WES system requirements shall not be used to regulate cell tower applications.

Meteorological towers are included in this regulation.

1) General Requirements

- a) Height
 - (1) For all WES there is a height limitation of 200 feet.
 - (2) Tower height is measured from the rotor blade at its highest point to the grade.
- b) Horizontal Extension
 - (1) The furthest horizontal extension of a WES (including guy wires) shall not extend into a required setback by the zoning district or be closer than twelve (12) feet to any primary structure (unless supported by the primary structure), or right-of-way easement for any above-ground telephone, electrical transmission or distribution lines.
- c) Setback Requirements
 - (1) WES less than thirty-five (35) feet in height shall be setback a minimum of three times the height feet from any non-participating adjoining parcel or adjoining roadway.
 - (2) WES greater than thirty-five (35) feet in height shall have minimum setback distances of 2640 feet from the center of the tower to all non-participating property lines or public road.
- d) Safety Design and Installation Standards
 - (1) Industry Standards and other Regulations
 - (a) All WES shall conform to applicable industry standards, as well as all local, state and federal regulations. An applicant shall submit certificate(s) of design compliance that wind turbine manufacturers have obtained from Underwriters Laboratories, or an equivalent third party.
 - (2) Equipment Type
 - (a) All turbines shall be constructed of commercially available equipment
 - (b) Meteorological towers may be guyed.
 - (c) Experimental, or proto-type equipment: Experimental or proto-type equipment still in testing which does not fully comply with industry standards, may be approved by the Board of Zoning Appeals per the variance process established by this Ordinance.
 - (3) Equipment Installation
 - (a) All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
 - (b) To the greatest practical extent, all electrical wires and utility connections shall be installed underground, except for transformers, inverters, substations and controls. The Board of Zoning Appeals will take into consideration prohibitive costs and site limitations in making their determination.
 - (4) Lighting
 - (a) All lighting shall follow applicable Federal Aviation Administration regulations.
 - (b) All lighting shall be shielded so that no glare extends substantially beyond the boundaries of the project.
- e) Color and Finish
 - (1) All wind turbines, blades and towers that are part of WES shall be white, grey, or another non-obtrusive color.
- f) Signs and Warnings

- (1) The following notices shall be clearly visible on all WES facilities:
 - (a) "No Trespassing" signs shall be attached to any perimeter fence.
 - (b) "Danger" signs shall be posted at the height of five (5) feet on WES towers and accessory structures.
 - (c) A sign shall be posted on the tower showing an emergency telephone number.
- (2) The manual electrical and/or over-speed shutdown disconnect switch(es) shall be clearly labeled.
- g) Screening
 - (1) No screening required.
- h) Climb Prevention
 - (1) All WES towers exceeding thirty-five (35) feet shall include features to deter climbing or be protected by anti-climbing devices such as:
 - (i) Fences with locking portals at least six (6) feet in height; or
 - (ii) Anti-climbing devices fifteen (15) feet vertically from the base of the WES tower; or
 - (iii) Locked WES tower doors.
- i) Blade Clearance
 - (1) The minimum distance between the ground and any protruding blades(s) utilized on all WES, exceeding the thirty-five (35) foot height, shall be twenty-five (25) feet, as measured at the lowest point of the arc of the blades. The minimum distance shall be increased as necessary to provide for vehicle clearance in locations where over-sized vehicles might travel.
- j) Wetlands and Flood Plains
 - (1) Facility plan shall not be proposed in an area designated by the Department of Natural Resources (DNR) or Franklin County zoning map as a flood plain.
 - (2) Any site designated as isolated wetlands (those wetlands not regulated under the federal Clean Water Act) are Waters of the State and are regulated under Indiana's State Isolated Wetlands law (Indiana Code 13-18-22). Impacts to isolated wetlands require State Isolated Wetland Permits from IDEM.
- k) Sewer and Water
 - (1) All WES facilities shall comply with the existing septic and well regulations as required by the Franklin County Health Department and/or the State of Indiana Department of Public Health.
- l) Shadow Flicker
 - (1) At no time shall a wind turbine's tower, nacelle, or blades create shadow flicker on any non-participating landowner's property. For the purpose of this section a non-participating landowner shall be defined as a landowner on which a tower does not physically sit.
 - (2) Measurements to assess shadow flicker shall be for all non-participating landowner dwellings located within 0.6 miles or 3,168 feet of a turbine. If shadow flicker will exceed this level then a shadow flicker mitigation plan must be submitted for each affected non-participating dwelling which shall provide for zero shadow flicker for the affected non-participating dwelling.
- m) Noise and Vibration
 - (1) The noise level of all WES shall be no greater than fifty (50) decibels measured from the nearest property line. This level may only be exceeded during short-term events such as utility outages and/or severe windstorms. All other noise and vibration levels shall follow all county, state, and federal regulations.
- n) Sine Wave Deviations
 - (1) Waveform deviations from WES that occur within the electrical environment of a non-participating residence, must conform to acceptable parameters within the Information Technology Industry Council (ITIC) curve at the point of common coupling at the residence.
- o) Utility Interconnection

- (1) The WES, if interconnected to a utility system, shall meet the requirements for interconnection and operate as prescribed by the applicable regulations of the electrical utility, Federal and State regulations, amended from time to time.
- p) Emergency Response
 - (1) WES applicant must cooperate with the local fire department to develop an Emergency Response Plan including access for training.
- q) Other Appurtenances
 - (1) No appurtenances other than those associated with the wind turbine operations shall be connected to any wind tower except with express, written permission by the Board of Zoning Appeals.
- 2) Operation and Maintenance**
 - a) Operator
 - (1) Unless otherwise specified through a contract or agreement, the property owner of record will be presumed to be the responsible party for owning and maintaining the Wind Energy System.
 - b) Liability Insurance-Commercial WES
 - (1) The owner or operator of any commercial WES shall maintain a current general liability policy covering bodily injury and property damage and shall be required to name Franklin County as an additional insured with dollar amount limits per occurrence in the amount of two million dollars (\$2,000,000) minimum for all WES and an aggregate of five million dollars (\$5,000,000) Proof of liability insurance shall be sent to the Executive Director annually; failure to maintain said insurance shall result in cancellation of the Improvement Location Permit by the Executive Director.
 - c) Physical Modifications
 - (1) In general, any physical modification to any WES that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification. Like-kind replacements shall not require re-certification. Therefore, prior to making any physical modification, the owner or operator shall confer with the Executive Director for approval and Board of Zoning Appeals to determine whether the physical modification requires re-certification.
 - d) Declaration of Public Nuisance
 - (1) Any WES thereof declared to be unsafe by the Franklin County Executive Director by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the approved Decommissioning Plan.
 - e) Change in Ownership
 - (1) It is the responsibility of the owner or operator listed in the application to inform the Executive Director of all changes in ownership and operation during the life of the project, including the sale or transfer of ownership or operation.
 - f) Easements
 - (1) WES easements are not controlled or arbitrated by Franklin County.
- 3) Decommissioning Plan**
 - a) Prior to receiving approval under this Ordinance, the Board of Zoning Appeals and the applicant, County Commissioners, and owner and/or operator shall formulate a decommissioning plan approved and signed by the County Commissioners and the applicant, outlining the anticipated means and cost of removing a WES at the end of their serviceable life or upon becoming a discontinued or abandoned use to ensure that the WES is properly decommissioned.
 - b) Surety Bond-Commercial WES
 - (1) Applicant for a commercial WES shall provide a bond, or other proof of financial responsibility that is of an amount determined by the County Commission to be sufficient to satisfy the decommissioning agreement requirements.
 - (2) Other proof of financial responsibility may be:

- (a) Cash advance to county to be released upon completion of decommissioning plan.
 - (b) An arrangement whereby the county would have access to the funds in an escrow account or other type of account held by a bank, until the completion of the decommissioning plan.
 - (3) Bond shall be released upon receipt of a certificate of inspection by the office of the Area Planning Executive Director indicating that the decommissioning plan is complete with no unresolved issues related to the plan.
- c) A decommissioning plan shall include, at a minimum, language to the following:
 - (a) Assurance: Must provide written assurance and financial assurance based on cost estimates that the facilities will be properly decommissioned upon the project life or in the event that the facility is abandoned.
 - (b) Cost estimates: The applicant shall provide a contractor cost estimate for demolition and removal of the WES facility which cost estimate shall include any offsetting effects of salvage value. The cost estimates shall be made by a competent party: such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning WES and approved by the Board of Zoning Appeals.
 - (c) Cost adjustments: Terminology shall be included in the plan that provides cost estimate adjustments derived from the US Bureau of Labor Statistics Consumer Price Indexes (CPI) to protect against inflation.
- d) Discontinuation and Abandonment
 - (1) Discontinuation: All WES shall be considered a discontinued use after six (6) months without energy production, unless a plan is developed and submitted to the Executive Director outlining the steps and schedule for returning the WES to service.
 - (2) Abandonment by the owner or operator: In the event of abandonment by the owner or operator, the applicant will provide an affidavit to the Executive Director representing that all easements for wind turbines shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the property owners to ensure that facilities are properly decommissioned within one (1) year of expiration or earlier termination of the project.
 - (3) Removal
 - (a) An applicant's obligations shall include removal of all physical material pertaining to the project improvements within three hundred sixty-five (365) days of the discontinuation or abandonment of the facility, and restoration of the project area to as near as practicable the condition of the site immediately before construction of such improvements by the owner, (unless otherwise agreed to by the property owner) or by Franklin County at the owner's expense.
 - (4) Written Notices
 - (a) Prior to implementation of the existing procedures for the resolution of such default(s), the Executive Director shall first provide written notice to the owner and/or operator, setting forth the alleged default(s). Such written notice shall provide the owner and/or operator a reasonable time period not to exceed sixty (60) days, for good faith negotiations to resolve the alleged default(s).
 - (5) Costs Incurred by the County
 - (a) If the County removes a tower and appurtenant facilities, it may sell the salvage to defray the costs of removal. By approval, the permittee or grantor grants a license to Franklin County to enter the property to remove a tower pursuant to the terms of an approved decommissioning plan.
- 4) **Application Procedures**
 - a) Permits and conditional uses shall be applied for and reviewed under the procedures established by this Ordinance.

- b) The Area Planning Executive Director shall retain the services of a professional engineer, licensed in Indiana, with expertise in WES to perform a technical review of the development plan prior to submittal to the APC. The costs of services shall be included in the application fees.
 - c) In addition to the application requirements listed, applications for all WES shall also include the following information:
 - (1) Demonstration of Energy Need: The primary purpose of the production of energy from a WES shall be to serve an energy need. The applicant(s) shall demonstrate how much energy is needed and how the proposed size and number of the WES fulfills this need. Net-metering may be allowed but shall not be the primary intent of the WES.
 - (2) Utility Notification: WES shall not be installed until evidence has been given that the affected utility company has been informed and has agreed to accept energy from potentially interconnected customer-owned generator.
 - d) Fees
 - (1) All primary voltage WES (including meteorological towers) \$20,000 per tower plus \$100 per Megawatt.
 - (a) The applicant shall also be charged the actual cost of the technical review conducted by an independent representative contracted by the Executive Director.
 - (b) Should the application fail to meet approval, 80% of the application fee shall be refunded, except the actual costs incurred by the county for any and all technical reviews.
 - (2) All intermediate secondary voltage WES \$1000.
 - (a) The applicant shall also be charged the actual cost of the technical review conducted by an independent representative contracted by the Executive Director.
- 5) Development Plan**
- a) Prior to the issuance of any Improvement Location Permit, the following shall be submitted to and reviewed by the Executive Director, who shall certify that the following are in compliance with all applicable regulations:
 - b) Decommissioning Plan
 - (1) A Decommissioning Plan and financial assurance given as found in this section.
 - c) Drainage and Erosion Control Plan.
 - (1) The drainage and erosion control plan shall comply with section 80.08.05 Soil Survey- Drainage, Erosion and Sediment Control.
 - (2) All existing drainage fields shall be maintained as originally designed.
 - (3) No existing drainage field shall be disturbed or impede service to or from non-participating landowner.
 - d) Utility Plan
 - (1) A utility plan drawn to the same scale as the site plan illustrating the location of all underground utility lines associated with the total WES project shall be submitted to Executive Director. No individual sheet or drawing shall exceed twenty-four inches by thirty-six inches (24" x 36").
 - e) Final Site Layout Plan
 - (1) Provide a copy of the Final Site Layout Plan illustrating the final location of all that is required in the preliminary site layout plan, as approved by the landowner.
 - f) Road Use and Maintenance Agreement
 - (1) A Road Use and Maintenance Agreement (construction and deconstruction) for all oversized loads must be drafted in accord with the Franklin County Highway Department and approved by the Franklin County Commissioners. Financial assurances may be required.
- 6) Project Description**
- a) The following documents shall be provided as part of the application for an Improvement Location Permit.
 - (1) Wind system specifications, including typical manufacturer and model.
 - (2) The manufacturer specifications for the key components of the wind energy system.

- (3) Certification that layout design, and installation conform to and comply with all applicable industry standards.

C) Commercial and Intermediate Solar Energy Systems (SES) Siting Regulations

1) General Requirements

- a) Height-Ground-Mounted SES
 - (1) SES shall not exceed overall height of 20 feet.
 - (2) The height shall be calculated as the distance from grade to the top of the solar panel at its greatest incline
- b) Height-Building-Mounted SES
 - (1) SES may exceed the maximum allowed building height of the building or structure on which it is located by ten (10) feet.
 - (2) SES may project off a building façade up to three (3) feet into the required setback.
 - (3) The height shall be calculated as the distance from roof to the top of the solar panel at its greatest incline.
- c) Setback (Ground-Mounted Systems Only)
 - (1) Setbacks shall be measured from the property line to the nearest piece of above ground solar energy equipment. Setbacks do not apply to underground cabling, fencing, access roads/lanes or ingress/egress roads.
 - (2) SES shall be set back a minimum of one hundred forty (140) feet from the center of any adjoining public road.
 - (3) SES shall be setback a minimum of one hundred (100) feet from any nonparticipating adjoining parcel.
 - (4) Should a SES encompass residences or public buildings, an additional fifty (50) feet of setback shall be required on the 3rd and 4th side of the adjacent non-participating property lines.
- d) Area-Commercial Ground-Mounted SES
 - (1) Primary voltage systems shall be 5-acre minimum site area, not including access roads.
- e) Area-Intermediate Ground-Mounted SES
 - (1) Secondary voltage system requires greater than 2000 square feet of panel area.
- f) Safety Design and Installation Standards
 - (1) Industry Standards and other Regulations.
 - (a) All SES shall conform to applicable industry standards, as well as all local, state and federal regulations. An applicant shall submit certificate(s) of design compliance that solar equipment manufacturers have obtained from Underwriters Laboratories, or an equivalent third party.
 - (2) Equipment Type
 - (a) Experimental, or proto-type equipment: Experimental or proto-type equipment still in testing which does not fully comply with industry standards, may be approved by the Board of Zoning Appeals per the variance process established by this Ordinance.
 - (3) Equipment Installation
 - (a) All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
 - (b) To the greatest practical extent, all electrical wires and utility connections shall be installed underground, except for transformers, inverters, substations and controls. The Board of Zoning Appeals will take into consideration prohibitive costs and site limitations in making their determination.
 - (4) Lighting
 - (a) All lighting shall be shielded so that no glare extends substantially beyond the boundaries of the project.
- g) Color and Finish

- (1) Finish must be made to minimize glare to surrounding properties.
- h) Security
 - (1) For ground-mounted SES, perimeter fencing shall be a six (6) foot tall chain link fence (with three strands of barbed wire at top) around the perimeter of the site.
- i) Screening (Ground-Mounted Systems Only)
 - (1) Level 2 screening per 80.08.10 if located within 400 feet of non-participating landowner or public right of way.
- j) Wetlands and Flood Plains
 - (1) Facility plan shall not be proposed in an area designated by the Department of Natural Resources (DNR) or Franklin County zoning map as a flood plain.
 - (2) Any site designated as isolated wetlands (those wetlands not regulated under the federal Clean Water Act) are Waters of the State and are regulated under Indiana's State Isolated Wetlands law (Indiana Code 13-18-22). Impacts to isolated wetlands require State Isolated Wetland Permits from IDEM.
- k) Sewer and Water
 - (1) All SES facilities shall comply with the existing septic and well regulations as required by the Franklin County Health Department and/or the State of Indiana Department of Public Health.
- l) Noise and Vibration
 - (1) The noise level of all SES shall be no greater than fifty (50) decibels measured from the nearest property line. This level may only be exceeded during short-term events such as utility outages and/or severe windstorms. All other noise and vibration levels shall follow all county, state, and federal regulations.
- m) Sine Wave Deviations
 - (1) Waveform deviations from a SES that occur within the electrical environment of a non-participating residence, must conform to acceptable parameters within the Information Technology Industry Council (ITIC) curve at the point of common coupling at the residence.
- n) Utility Interconnection
 - (1) The SES, if primary voltage is interconnected to a utility system, it shall meet the requirements for interconnection and operate as prescribed by the applicable regulations of the electrical utility, Federal and state regulations, amended from time to time.
- 2) Operation and Maintenance**
 - a) Operator
 - (1) Unless otherwise specified through a contract or agreement, the property owner of record will be presumed to be the responsible party for owning and maintaining the Solar Energy System.
 - b) Liability Insurance-Commercial SES
 - (1) The owner or operator of any commercial SES shall maintain a current general liability policy covering bodily injury and property damage and shall be required to name Franklin County as an additional insured with dollar amount limits per occurrence in the amount of two million dollars (\$2,000,000) minimum for all SES and an aggregate of five million dollars (\$5,000,000) Proof of liability insurance shall be sent to the Executive Director annually; failure to maintain said insurance shall result in cancellation of the Improvement Location Permit by the Executive Director.
 - c) Physical Modifications
 - (1) In general, any physical modification to any SES that alters the mechanical load, or major electrical components shall require re-certification. Like-kind replacements shall not require re-certification. Therefore, prior to making any physical modification, the owner or operator shall confer with the Executive Director and Board of Zoning Appeals to determine whether the physical modification requires re-certification.
 - d) Declaration of Public Nuisance

- (1) Any SES thereof declared to be unsafe by the Franklin County Executive Director by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the approved Decommissioning Plan.
- e) Shadows
 - (1) No solar apparatus shall cast an appreciable shadow on surrounding properties solar production facilities.
- f) Change in Ownership - It is the responsibility of the owner or operator listed in the application to inform the Executive Director of all changes in ownership and operation during the life of the project, including the sale or transfer of ownership or operation.
- g) Easements
 - (1) Solar easements are not controlled or arbitrated by Franklin County
- 3) Decommissioning Plan**
 - a) Prior to receiving approval under this Ordinance, the Board of Zoning Appeals and the applicant, County Commissioners, and owner and/or operator shall formulate a decommissioning plan approved and signed by the County Commissioners and the applicant, outlining the anticipated means and cost of removing a SES at the end of their serviceable life or upon becoming a discontinued or abandoned use to ensure that the SES is properly decommissioned.
 - b) Surety Bond-Commercial SES
 - (1) Applicant for a commercial SES shall provide a bond, or other proof of financial responsibility that is of an amount determined by the County Commission to be sufficient to satisfy the decommissioning agreement requirements.
 - (2) Other proof of financial responsibility may be:
 - (a) Cash advance to county to be released upon completion of decommissioning plan.
 - (b) An arrangement whereby the county would have access to the funds in an escrow account or other type of account held by a bank, until the completion of the decommissioning plan.
 - (3) Bond shall be released upon receipt of a certificate of inspection by the office of the Area Planning Executive Director indicating that the decommissioning plan is complete with no unresolved issues related to the plan.
 - c) A decommissioning plan shall include, at a minimum, language to the following:
 - (1) Assurance: Written assurance that the facilities will be properly decommissioned upon the project life or in the event that the facility is abandoned.
 - (2) Cost estimates: The applicant shall provide a contractor cost estimate for demolition and removal of the SES facility which cost estimate shall include any offsetting effects of salvage value. The cost estimates shall be made by a competent party: such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning SES.
 - (3) Cost adjustments: Terminology shall be included in the plan that provides cost estimate adjustments derived from the US Bureau of Labor Statistics Consumer Price Indexes (CPI) to protect against inflation.
 - d) Discontinuation and Abandonment
 - (1) Discontinuation: All SES shall be considered a discontinued use after six (6) months without energy production, unless a plan is developed and submitted to the Executive Director outlining the steps and schedule for returning the SES to service.
 - (2) Abandonment by the owner or operator: In the event of abandonment by the owner or operator, the applicant will provide an affidavit to the Executive Director representing that all easements for solar collection shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the property owners to ensure that facilities are properly decommissioned within one (1) year of expiration or earlier termination of the project.
 - e) Removal

- (1) An applicant's obligations shall include removal of all physical material pertaining to the project improvements to no less than a depth of six (6) feet below ground level within three hundred sixty-five (365) days of the discontinuation or abandonment of the facility, and restoration of the project area to as near as practicable the condition of the site immediately before construction of such improvements by the owner, (unless otherwise agreed to by the property owner) or by Franklin County at the owner's expense.
- f) Written Notices
 - (1) Prior to implementation of the existing procedures for the resolution of such default(s), the Executive Director shall first provide written notice to the owner and/or operator, setting forth the alleged default(s). Such written notice shall provide the owner and/or operator a reasonable time period not to exceed sixty (60) days, for good faith negotiations to resolve the alleged default(s).
- g) Costs Incurred by the County
 - (1) If the County removes a solar plant and appurtenant facilities, it may sell the salvage to defray the costs of removal. By approval, the permittee or grantor grants a license to Franklin County to enter the property to remove the solar plant pursuant to the terms of an approved decommissioning plan.
- 4) **Application Procedures**
 - a) Permits and conditional uses shall be applied for and reviewed under the procedures established by this Ordinance.
 - b) The Area Planning Executive Director shall retain the services of a professional engineer, licensed in Indiana, with expertise in SES to perform a technical review of the development plan prior to submittal to the APC. The costs of services shall be included in the application fee.
 - c) In addition to the application requirements listed, applications for all SES shall also include the following information:
 - (1) Demonstration of Energy Need: The primary purpose of the production of energy from a SES shall be to serve an energy need. The applicant(s) shall demonstrate how much energy is needed and how the proposed size and number of the SES fulfills this need. Net-metering may be allowed but shall not be the primary intent of the SES.
 - (2) Utility Notification: SES shall not be installed until evidence has been given that the affected utility company has been informed and has agreed to accept energy from potentially interconnected customer-owned generator. Intermediate (secondary voltage connected) systems shall be exempt from this requirement
 - d) Fees
 - (1) All commercial primary voltage SES \$20,000 plus \$100 per Megawatt.
 - (a) The applicant shall also be charged the actual cost of the technical review conducted by an independent representative contracted by the Executive Director.
 - (b) Should the application fail to meet approval, 80% of the application fee shall be refunded, except the actual costs incurred by the county for any and all technical reviews.
 - (2) All intermediate secondary voltage SES \$1000.
 - (a) The applicant shall also be charged the actual cost of the technical review conducted by an independent representative contracted by the Executive Director.
- 5) **Development Plan**
 - a) Prior to the issuance of any Improvement Location Permit for primary connected SES, the following shall be submitted to and reviewed by the Executive Director, who shall certify that the following are in compliance with all applicable regulations:
 - b) Decommissioning Plan
 - (1) A Decommissioning Plan as prescribed in this section.
 - c) Drainage and Erosion Control Plan
 - (1) The drainage and erosion control plan shall comply with section 80.08.05 Soil Survey-Drainage, Erosion and Sediment Control.

- (2) All existing drainage fields shall be maintained as originally designed.
- (3) No existing drainage field shall be disturbed or impede service to or from non-participating landowner.
- d) Utility Plan
 - (1) A utility plan drawn to the same scale as the site plan illustrating the location of all underground utility lines associated with the total SES project shall be submitted to Executive Director.
- e) Final Site Layout Plan
 - (1) Provide a copy of the Final Site Layout Plan illustrating the final location of all that is required in the preliminary site layout plan, as approved by the landowner.
- f) Road Use and Maintenance Agreement
 - (1) A Road Use and Maintenance Agreement (construction and deconstruction) for all oversized loads must be drafted in accord with the Franklin County Highway Department and approved by the Franklin County Commissioners. Financial assurances may be required.
- 6) Project Description**
 - a) The following documents shall be provided as part of the application for an Improvement Location Permit.
 - (1) Solar system specifications, including typical manufacturer and model.
 - (2) The manufacturer specifications for the key components of the solar energy system.
 - (3) Certification that layout design, and installation conform to and comply with all applicable industry standards.

COMMERCIAL AND INTERMEDIATE AES APPLICATION CHECKLIST

Project Name: _____

Applicant Name: _____ **Date:** _____

Application

- [illegible]

Development Plan

- ☐ Liability Insurance Policy Insurance Provider _____
 - ☐ Decommissioning Plan
 - ☐ Financial Assurance Type: ☐ Bond ☐ Cash ☐ Other
 - ☐ Assurance of Decommission
 - ☐ Decommission Cost Estimate
 - ☐ Drainage and Erosion Control Plan
 - ☐ Utility Plan
 - ☐ Site Layout Plan
 - ☐ Road Use and Maintenance Agreement
 - ☐ **Project Description**
 - ☐ System Specifications
 - ☐ Manufacturers Equipment Specifications
 - ☐ Compliance to Standards
 - ☐ Technical Review Complete Date _____

Certification by Executive Director Area Planning Commission

Signature _____ Date _____

SECTION 80.06.06 – RESIDENTIAL ALTERNATE ENERGY SYSTEMS

A. Regulations

- 1) Approval Process: Class 2, Permitted by Executive Decision – Class 3 – Town of Brookville, Cedar Grove, Mt Carmel, and Oldenburg.
- 2) Zoning Districts Permitted: All zones except F-P

B. Wind Energy System Regulations

1) General Requirements

- a) Height
 - (1) Maximum height of thirty-five (35) feet.
 - (2) Tower height is measured from the rotor blade at its highest point to the grade.
- b) Setback
 - (1) Tower placement shall meet the required setbacks of the district in which they are located but shall be setback no less than 1 ½ times the height of a tower.
- c) Siting
 - (1) Tower shall not be located over a septic field unless approval is granted from the Franklin County Health Department.
 - (2) WES shall only be permitted in the rear and side yard, with the following exception: The Zoning Administrator may authorize the installation of a tower in front of the principal building, if the applicant demonstrates that, due to wind access limitations, no location exists on the property other than the front yard where the wind turbine can perform effectively.
 - (3) WES shall not be placed within any legal easement or right-of-way location except if permission is granted in writing by the owner of right-of-way or easement. Nor should it be placed within the legal easement of any Franklin County drain except if permission is granted in writing by the Franklin County Surveyor.
- d) Screening
 - (1) None required.
- e) Lighting
 - (1) Lighting may require shielding so that no glare extends substantially beyond any structure.
- f) Shadow Flicker
 - (1) At no time shall a wind turbine's tower, nacelle, or blades create shadow flicker on any non-participating landowner's property.
- g) Noise and Vibration
 - (1) The noise level of all WES shall be no greater than thirty-two (32) decibels measured from the nearest property line. This level may only be exceeded during short-term events such as utility outages and/or severe windstorms. All other noise and vibration levels shall follow all county, state, and federal regulations.
- h) Utility Interconnection
 - (1) The WES, if interconnected to a utility system, shall meet the requirements for interconnection and operate as prescribed by the applicable regulations of the electrical utility, Federal and State regulations.

2) Site Plan

- a) Utility Plan
 - (1) A utility plan drawn to the same scale as the site plan illustrating the location of all underground utility lines associated with the total WES project shall be submitted to

Executive Director. No individual sheet or drawing shall exceed twenty-four inches by thirty-six inches (24" x 36").

b) Final Site Layout

- (1) Provide a copy of the Final Site Layout illustrating the final location of all that is required.

3) Project Description

a) The following documents shall be provided as part of the application for an Improvement Location Permit.

- (1) Wind system specifications, including typical manufacturer and model.
- (2) The manufacturer specifications for the key components of the wind turbine energy system.
- (3) Certification that layout design, and installation conform to and comply with all applicable industry standards.

C. Ground-Mounted Solar Energy System Regulations

1) General Requirements

a) Height

- (1) SES shall not be taller than twenty (20) feet above grade.
- (2) The height of the SES shall be calculated as the distance from grade to the top of the solar panel at its greatest incline.

b) Setbacks

- (1) Setbacks shall be measured from the property line to the nearest piece of above ground solar energy equipment.
- (2) SES shall meet the required setbacks of the district in which they are located but shall be setback no less than 1 ½ times the height of a ground-mounted structure.

c) Area

- (1) Less than or equal 2,000 square feet in panel area.

d) Siting

- (1) SES shall not be located over a septic field unless approval is granted from the Franklin County Health Department.
- (2) SES shall only be permitted in the rear and side yard, with the following exception: The BZA may authorize the installation of a ground mounted SES in front of the principal building, if the applicant demonstrates that, due to solar access limitations, no location exists on the property other than the front yard where the solar panel can perform effectively. In such cases the SES must meet the front yard setback of the zoning district in which it is to be located.
- (3) SES shall not be placed within any legal easement or right-of-way location except if permission is granted in writing by the owner of right-of-way or easement. Nor should it be placed within the legal easement of any Franklin County drain except if permission is granted in writing by the Franklin County Surveyor.

e) Screening

- (1) SES shall meet the required screening of the district in which they are located, but allowances shall be made to ensure screening does not affect the efficiency of the system by shading the solar panels.

f) Lighting

- (1) Lighting may require shielding so that no glare extends substantially beyond any structure.

g) Noise and Vibration

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ALTERNATE ENERGY SYSTEMS

- (1) The noise level of all SES shall be no greater than thirty-two (32) decibels measured from the nearest property line. This level may only be exceeded during short-term events such as utility outages and/or severe windstorms. All other noise and vibration levels shall follow all county, state, and federal regulations
- h) Sine Wave Deviation
 - (1) Waveform deviations from SES that occur within the electrical environment of a non-participating residence, must conform to acceptable parameters within the Information Technology Industry Council (ITIC) curve at the point of common coupling at the residence.
- i) Utility Interconnection
 - (1) The WES, if interconnected to a utility system, shall meet the requirements for interconnection and operate as prescribed by the applicable regulations of the electrical utility, Federal and State regulations.
- 2) **Site Plan**
 - a) Utility Plan
 - (1) A utility plan drawn to the same scale as the site plan illustrating the location of all underground utility lines associated with the total SES project shall be submitted to Executive Director. No individual sheet or drawing shall exceed twenty-four inches by thirty-six inches (24" x 36").
 - b) Final Site Layout Plan
 - (1) Provide a copy of the Final Site Layout Plan illustrating the final location of all that is required.
- 3) **Project Description**
 - a) The following documents shall be provided as part of the application for an Improvement Location Permit.
 - (1) Solar system specifications, including typical manufacturer and model.
 - (2) The manufacturer specifications for the key components of the solar energy system.
 - (3) Certification that layout design, and installation conform to and comply with all applicable industry standards.

D. Building-Mounted Solar Energy System Regulations

1) General Requirements

- a) Height
 - (1) The height of the SES shall be calculated as the distance from roof to the top of the solar panel at its greatest incline.
 - (2) SES may exceed the maximum allowed building height of the building or structure on which it is located by five (5) feet in residential districts and ten (10) feet in all other districts.
 - (3) SES may project off a building façade up to three (3) feet into the required setback.
 - (4) SES may be installed on legally established nonconforming buildings as long as the installation of the SES does not increase the nonconformity, except for the allowances in height and projection as outlined above.
- b) Safety
 - (1) SES shall be located in such a manner as to ensure emergency access to the roof, provide pathways to specific areas of the roof, and provide for smoke ventilation opportunities.
 - (2) SES shall be located in accordance with the Indiana Fire Code.
- c) Noise and Vibration

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- (1) The noise level of SES shall be no greater than thirty-two (32) decibels measured from the nearest property line. This level may only be exceeded during short-term events such as utility outages and/or severe windstorms. All other noise and vibration levels shall follow all county, state, and federal regulations.
- d) Sine Wave Deviations
 - (1) Waveform deviations from SES that occur within the electrical environment of a non-participating residence, must conform to acceptable parameters within the Information Technology Industry Council (ITIC) curve at the point of common coupling at the residence.
- e) Utility Interconnection
 - (1) The SES, if interconnected to a utility system, shall meet the requirements for interconnection and operate as prescribed by the applicable regulations of the electrical utility, Federal and State regulations.
- 2) **Site Plan**
 - a) Utility Plan
 - (1) A utility plan drawn to the same scale as the site plan illustrating the location of all underground utility lines associated with the total SES project shall be submitted to Executive Director. No individual sheet or drawing shall exceed twenty-four inches by thirty-six inches (24" x 36").
 - b) Final Site Layout
 - (1) Provide a copy of the Final Site Layout illustrating the final location of all that is required.
- 3) **Project Description**
 - a) The following documents shall be provided as part of the application for an Improvement Location Permit.
 - (1) Solar system specifications, including typical manufacturer and model.
 - (2) The manufacturer specifications for the key components of the solar energy system.
 - (3) Certification that layout design, and installation conform to and comply with all applicable industry standards.